

Remarks

Claims 75 – 140 were pending as of the October 1, 2004 Office Action. The Examiner rejected claims: 75 -140 under 35 U.S.C. § 112; 75 – 79, 91 and 103 – 107 under 35 U.S.C. 102(b) as being anticipated by Torres; 75 – 84, 91 – 95, 103 – 112, 119 and 120 – 123 under 35 U.S.C. 102(b) as being anticipated by Delli Bovi et al.; and 85 – 88, 98, 99, 101, 102, 113 – 116, 126, 127 and 129 – 131 under 35 U.S.C. 103(a) as being unpatentable over Delli Bovi et al. The Examiner indicated that claims 89, 90, 96, 97, 100, 117, 118, 124, 125, 128, 132, 133, 137 and 138 would be allowable if rewritten in independent form to include all limitations of the base claim and any intervening claims.

Accordingly, applicants have cancelled claims 75 – 88, 91 – 95, 98, 99, 101 – 116, 119 – 123, 126, 127, 129 – 131, 134 – 136 and 139 – 140. Allowable claims 89, 96, 100, 117, 124, 128, 132 and 137 have been rewritten in independent form to include all of the limitations of the base claim and any intervening claims. In addition, applicants have addressed the Section 112 rejection in these rewritten independent claims by reciting that the shaft members are disposed within the central cavity. Claims 90, 97, 118, 125, 133 and 138 depend from the rewritten independent claims. Thus, applicants respectfully submit that claims 89, 90, 96, 97, 100, 117, 118, 124, 125, 128, 132, 133, 137 and 138 are now in condition for allowance.

Applicants have also added new claims 141 – 145. New claim 141 calls for a planar member operatively associated with the shaft members and disposed in the central cavity so that the planar member cooperates with the central cavity to permit movement between the upper and lower torso members while controlling movement of the shaft members. New claim 142 calls for a planar member to be held in a stationary position by the central cavity so as to permit movement between the upper and lower torso members while controlling movement of the shaft members. New claims 143, 144 and 145 recite similar structural features regarding the planar member.

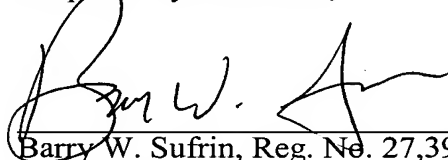
In Torres, the upper and lower torso portions of the figure are integral and do not move with respect to each other as in applicants' claimed invention. The planar member (78) is mounted within and between the upper and lower torso portions in Torres – it is not mounted so as to permit movement between the upper and lower torso members as recited in new claims 140 – 145. Thus, the Torres device neither teaches nor suggests applicants' invention of new claims 140 – 145.

Similarly, Delli Bovi et al. disclose a toy figure wherein the upper and lower torso portions are integral and do not move with respect to one another. As in Torres, the Delli Bovi et al. planar member (42) is not mounted so as to permit movement between the upper and lower torso portions as recited in new claims 140 – 145.

In neither Torres nor Delli Bovi et al. is the planar member disposed in a central cavity of the lower torso member so as to permit movement between the lower and upper torso members. That is, the planar member does not cooperate with the lower torso member independently of the upper torso member to control shaft movement. Thus, applicants respectfully submit that new claims 140 – 145 are allowable over both Torres and Delli Bovi et al. Accordingly, applicants request allowance of amended claims 89, 90, 96, 97, 100, 117, 118, 124, 125, 128, 132, 133, 137 and 138 and new claims 140 – 145.

The application is considered in good and proper form for allowance, and the Examiner is respectfully requested to pass this application to issue. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney.

Respectfully submitted,



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Date: January 28, 2005